

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.4409 OF 2006

Shamrao Dhondi Patole & others	Petitioners
versus	
Kamal Vishwas Patole & others	Respondents

Mr.B.A.Walimbe for petitioners.

CORAM : A.P.DESHPANDE, J.

DATE : 04th December 2006

PC :

1. The present writ petition has been filed by the original defendant/purchaser of the property from one Shamrao. The other co-owners instituted Regular Civil Suit No.206 of 2004 for partition and also prayed for an injunction seeking to restrain the present petitioner from disturbing their possession over the suit land. Though the Trial Court rejected the temporary injunction application, in a Miscellaneous Civil Appeal preferred by the plaintiffs, interim injunction has been granted, which order is challenged by filing the instant writ petition.

2. At the outset it is relevant to note that the order of temporary injunction is operating since last about ten months. The writ petition is filed challenging the impugned order on 23rd June 2006 and it is circulated for admission and is coming up for consideration of the Court today. The First Appellate Court being of the view that the plaintiffs have made out a prima facie case and further finding that the plaintiffs have balance of convenience in their favour, granted temporary injunction.

3. I do not find any ground to interfere in the said order. However, in view of the facts of the case I direct that the Trial Court shall proceed to decide the suit as expeditiously as possible and at any rate within a period of six months from today. The learned counsel for the petitioner then submits that the observations made by the First Appellate Court may influence the Trial Court while deciding the suit. The apprehension of the learned advocate for the petitioner is not well placed for the reason that the observations made by the First Appellate Court while deciding the temporary injunction application are prima facie in nature and will not influence the Trial Court while deciding the

suit on merits.

4. Writ Petition, therefore, summarily
dismissed. No order as to costs.

(A.P.DESHPANDE, J.)